VPH

IN THE HIGH COURT OF JUDICATURE AT BOBBY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7472 OF 2004

Dr. R. P. Rai) ... Petitioners.

Vs.

Union of India & Ors.) ... Respondents.

Mr. S. P. Saxena for the petitioner

Mr. R.R. Shetty with Mr. R.C. Menon advocates for for respondent Nos.

CORAM: F.I. REBELLO,
AND
R. V. MORE, JJ.

DATE : JANUARY 19, 2007.

P.C.:

. The petitioner herein had joined National Defence Academy at Khadakwasla, Pune as a lecturer on 8-3-1982. Previous to that petitioner had put in one years service with Council of Scientific and Industrial Research at Allahabad as Pool Officer. The petitioner was liable to be considered for the post of senior lecturer after five years of service. Petitioner accordingly was considered for the post of senior lecturer and was appointed after five years. In the mean time,

Government of India applied UGC package also to NDA. Consequent thereupon petitioner's previous service in CISR was also considered and the period of five years was counted from the date when he joined in CISR. As the petitioner is docterate, the experience required was of five years.

. Case of the petitioner was that thereafter he had to be considered for the post of Reader, after completing 8 years of service as senior lecturer. According to the petitioner, considering his past service with CISR, his case had to be considered as on 6-3-1994 and petitioner was informed about adverse entries in his Confidential Report for the year 1993-94 and 1994-95. The Grievance Committee took into consideration also the ACRs for the year 1993-94. The petitioner was subsequently appointed as Reader only in the year 2001.

2. The petitioner had filed Original Application, challenging his non promotion to the post of Reader and also the adverse entries in his Confidential Records, before the Central Administrative Tribunal, contending that A.C.Rs.

of 1993-94, 1995-96 and 1996-97 ought not to have been considered. On behalf of respondent no.1, it was contended that even if the A.C.R. of 1993-94 was excluded, considering the requirement of Bench Mark good for appointment to the post of Reader. Yet, considering his C.Rs. for the other years, he could not be considered as good and consequently no purpose could be served in referring the matter to the review DPC. The Tribunal itself has examined the record and held that remanding the matter to review DPC would be an exercise in futility, considering the material on record as there is no likelihood of any change in the assessment of the case of the applicant.

3. The petitioner challanged the said order on two grounds. Firstly, he submitted that it was not open to the Tribunal, to itself consider the record. The appropriate decision ought to have been taken by the review DPC; secondly, he submitted that if the Bench Mark was good, then the petitioner was never intimated that the entries in his A.C.Rs. were adverse, in order to enable the petitioner to make a representation. On these two counts, he submitted that impugned

order should be set aside.

4. In so far as first contention is considered, it is not as if the Tribunal would have no jurisdiction while passing an equitable order to examine the record. It is always open to the Tribunal in the exercise of its jurisdiction while granting relief, to consider if any purpose would be served in remanding the matter for review DPC. The Bench Mark was good. The Tribunal held that no useful purpose would be served as there would be no change in the bench mark even if the matter sent to a review D.P.C. and accordingly Tribunal rejected the said contention. We do not find that the order on that count suffers from any error apparent on the face of record.

5. In so far as the second contention is concerned, about the adverse entries in the A.C.Rs., petitioner has not challanged the same. In the Original Application the petitioner gave up the challange. After the challange was given up, to the A.C.Rs. and the committee had assessed the petitioner hence, there is no substance in the second contention Accordingly, we reject the

petition. There shall be no orders as to costs.

Sd/- Sd/-

[R. V. MORE, J.] **[F. I. REBELLO, J.]**